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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,074	04/02/2007	Heinrich Diekmeyer	056982/67	9430
31013 7590 11/25/2009 KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 1177 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER				
NGUYEN, VU Q				
ART UNIT		PAPER NUMBER		
3657				
NOTIFICATION DATE		DELIVERY MODE		
11/25/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

klpatent@kramerlevin.com

Office Action Summary

Application No.

10/566,074

Applicant(s)

DIEKMAYER, HEINRICH

Examiner

VU Q. NGUYEN

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6089831 (Bruehmann).

Regarding claim 1, Bruehmann discloses in Fig. 1, a pressurized-fluid-consuming system, comprising at least one pressurized-fluid consuming device (I, II, III) and at least one secondary consumer device (IV, V), said at least one secondary consumer device being constructed and arranged to draw pressurized fluid from at least one pressurized-fluid storage reservoir (37.1-37.5), said at least one pressurized-fluid storage reservoir being constructed and arranged to supply said at least one pressurized-fluid-consuming device, said at least one secondary consumer device including means for receiving a determined value of state of said at least one pressurized-fluid storage reservoir (see pressure sensors 54.1-54.3, 54.5 and control electronics 57) and for drawing pressurized fluid from said at least one pressurized-fluid storage reservoir only when said value of state reaches a predetermined minimum value (see column 7, lines 51-64).

Regarding claim 2, the Examiner submits that said value of state indicated by pressure sensors 54.1-54.3, 54.5 is pressure in said at least one pressurized-fluid storage reservoir 37.1-37.5.

Regarding claim 3, the Examiner submits that a lower limit of a predetermined range has been established as set forth above. See column 6, line 54 - column 7, line 20 disclosing an upper limit.

Regarding claim 4, see column 4, lines 40-48 disclosing pressurized-fluid-consuming device I, II, III as a vehicle brake system.

Regarding claim 5, see control electronics 57, data bus 59, column 5, lines 42-54, and column 7, lines 51-59.

Regarding claim 6, see a pressurized-fluid supply device 11, 18, 20; and column 7, lines 51-59 disclosing control electronics 57 sending information to a status indicator disposed in the driving compartment of the vehicle in order to inform the driver what pressure conditions are present, thereby meeting the limitation of "an electronics unit of an instrument panel".

Regarding claim 7, see column 6, line 54 - column 7, line 36.

Regarding claim 8, see column 4, lines 40-48 disclosing at least one secondary consumer device V as an air shock absorber circuit, which the Examiner submits can be interpreted as a vehicle level-control system, as broadly recited.

Regarding claim 9, see column 4, lines 40-48 disclosing service brake circuits, and thus, a service brake system, as claimed.

Response to Arguments

Applicant's arguments filed 07/01/2009 have been fully considered but they are not persuasive.

Applicant appears to argue that the use of overflow valves 40.4 and 40.5 in Bruehmann is precluded by claim 1. The Examiner disagrees. Claim 1 broadly recites "said at least one secondary consumer device including means for receiving a determined value of state of said at least one pressurized-fluid storage reservoir and for drawing pressurized fluid from said at least one pressurized-fluid storage reservoir only when said value of state reaches a predetermined minimum value." Nowhere in this limitation is the use of overflow valves clearly precluded.

Applicant asserts that "the present claimed invention eliminates the need to utilize safeguarding measures like overflow valves 40.4 and 40.5 because the electronic controls act directly on the secondary consumer devices to draw pressurized fluid from the pressurized-fluid storage reservoir when the value of state reaches a predetermined minimum value." The Examiner submits that the overflow valves 40.4 and 40.5 of Bruehmann can be interpreted as part of a multi-circuit protective function (see column 5, lines 4-8). It should be noted that in the instant invention, the use of a multi-circuit protective function is also disclosed on page 5, lines 7-20 of the specification filed 04/02/2007. The instant specification does not appear to disclose any details of the multi-circuit protective function. Therefore, aside from the fact that these features upon which Applicant relies (i.e., the electronic controls acting directly on the secondary consumer devices) are *not even recited in the claims*, it is unclear exactly how the

instant invention "eliminates the need to utilize safeguarding measures" and/or exactly how "the electronic controls act directly on the secondary consumer devices to draw pressurized fluid from the pressurized-fluid storage reservoir when the value of state reaches a predetermined value," as asserted by Applicant.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

For at least these reasons, the Examiner maintains that Bruehmann meets the limitations of the claims, as broadly recited.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VU Q. NGUYEN whose telephone number is (571) 272-7921. The examiner can normally be reached on Monday through Friday, 11:30 AM to 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. Q. N./
Examiner, Art Unit 3657

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3657